

### III. AMENDMENTS TO THE CLAIMS

This listing of claims replaces all prior versions, and listings, of claims of the application.

1. (Previously Presented) A semiconductor comprising:

a contact having a portion that extends on two opposing vertical sides of a vertical structure adjacent a first gate electrode, and wherein the contact contacts a diffusion adjacent the first gate electrode and is insulated horizontally from an adjacent second gate electrode and a spacer adjacent the second gate electrode by an insulating layer; and  
a masking layer for insulating the first gate electrode from the contact.

Claims 2-3 (Cancelled).

4. (Previously presented) The semiconductor of claim 1, wherein the contact includes an upper portion that is larger than a lower contact portion.

Claims 5-20 (Cancelled).

21. (Previously presented) The semiconductor of claim 1, wherein the vertical structure is a spacer.

22. (Previously presented) The semiconductor of claim 21, wherein the contact contacts a substrate adjacent the spacer.

Claims 23-33 (Cancelled).

Claims 34-43 (Cancelled).

44. (Previously presented) The semiconductor of claim 1, wherein the contact does not horizontally overlap the adjacent second gate electrode.

Claim 45 (Cancelled).

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